



COUNTY OF LOS ANGELES
CHIEF ADMINISTRATIVE OFFICE
713 KENNETH HAHN HALL OF ADMINISTRATION / LOS ANGELES, CALIFORNIA 90012
(213) 974-1101

SALLY R. REED
CHIEF ADMINISTRATIVE OFFICER

March 7, 1996

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

52

MAR 12 1996

Joanne Sturges
JOANNE STURGES
EXECUTIVE OFFICER

Dear Supervisors:

**DEPARTMENTAL LIABILITY COST APPORTIONMENT
(3-VOTES)**

On several occasions, your Board has indicated concern regarding liability costs and expressed support for timely resolution of claims and lawsuits. In our efforts to address these concerns, we are recommending that your Board authorize the Chief Administrative Officer, with the assistance of County Counsel, to implement a procedural process which would resolve department disputes regarding apportionment of liability costs, especially in situations involving two or more departments in the same claim or lawsuit.

Adoption of this recommendation implements a process for this office to expedite resolution of such internal disputes and accelerate settlement opportunities which are in the County's best interests. Further, we request the Board act immediately to enable the County to respond by March 15, 1996 to a major settlement opportunity where such a funding dispute could delay settlement.

The proposed process will relate only to internal funding issues, and does not affect existing Board policy and directives relating to settlement authority of the Board, Claims Board, County Counsel or the claims administrators.

BACKGROUND

In January 1992, the Judgments and Damages/Insurance Budget was decentralized in order to make departments financially responsible and accountable for their liability costs. This has necessitated that departments become participants in the County's settlement review process and provided them the opportunity to provide input on their liability. This entire effort has resulted in increased departmental awareness which has encouraged loss prevention efforts to control or reduce liability costs.

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However, in recent months we have been experiencing difficulties with departments refusing to accept responsibility for settlement proposals recommended by our County Counsel, outside advisors or Third-Party Administrators. This has delayed or could jeopardize timely settlement under terms which are legally and financially advantageous to the County. The department or departments generally take the position that they have lesser responsibility than has been recommended by County Counsel and our advisors.

PROPOSED RESOLUTION PROCESS GUIDELINES

In order to reach department agreement and take advantage of timely settlement opportunities, the following process should be established which requires that:

- In the initial stages of the claims handling or legal defense process, County Counsel, defense counsel if appropriate, and claims administrator will evaluate claims and lawsuits and provide their opinions and recommendations of the department or departments' respective share of liability.
- Department(s) will be notified and requested to provide relevant information and justification supporting their position regarding their respective share of responsibility.
- If a dispute exists, the Chief Administrative Office will convene a joint meeting with the involved department(s), County Counsel, defense counsel and claims administrator to review the facts and circumstances of the incident, and evaluate if apportionment of responsibility should be revised based on department input.

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- In the event department(s) continue to disagree with the recommended settlement and apportionment, the Chief Administrative Officer will make a final determination as to the settlement and cost apportionment so that funding responsibility will not delay submission of an otherwise appropriate settlement to the Claims Board and, as appropriate, to the Board of Supervisors for approval.
- The Chief Administrative Officer will meet, if requested, with the respective Department Head(s) to discuss the matter.
- Upon appropriate approval, the Chief Administrative Officer will direct the Auditor-Controller to make payment for settlements and judgments and charge costs to department(s) as appropriate.

We will soon distribute guidelines and procedures on County Liability Cost Allocation which will incorporate this dispute resolution process.

THEREFORE, IT IS RECOMMENDED THAT YOUR BOARD:

- 1) Approve the establishment of a dispute resolution process for resolution of issues concerning apportionment of liability costs as described herein, especially in situations involving two or more departments in the same claim or lawsuit;
- 2) Authorize the Chief Administrative Office, with the assistance of County Counsel, to implement and administer the dispute resolution process; and

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- 3) Direct the Auditor-Controller to make payment for settlements and judgments determined by the proposed dispute resolution process.

Respectfully submitted,


SALLY R. REED
Chief Administrative Officer

SRR:SNY
RA:df

C: Executive Officer, Board of Supervisors
County Counsel
Auditor-Controller
Department Heads



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#38

SALLY R. REED
CHIEF ADMINISTRATIVE OFFICER

April 15, 1996

To: All Department Heads

From: Sally R. Reed
Chief Administrative Officer

Subject: **LIABILITY COST ALLOCATION POLICY**

This memorandum establishes Countywide policy regarding the allocation of department auto, general and medical malpractice liability costs. In order to bring all of the existing policies and procedures together with the new allocation and dispute resolution process recently adopted by the Board of Supervisors, we have prepared the attached Liability Cost Allocation Policy (LCAP) statement. The new dispute resolution process is outlined on pages 5 and 6 of the attachment.

The LCAP is designed to:

- increase department awareness of and accountability for liability costs.
- establish guidelines for cost apportionment when multiple County departments are involved in the same claim or lawsuit.
- give departments an opportunity to provide input regarding their respective share of responsibility.
- implement a procedural process to resolve department disputes concerning responsibility and funding.
- enable the County to take timely advantage of favorable settlement opportunities

All Department Heads

April 15, 1996

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Application of the LCAP will ensure consistency in cost allocation and provide an avenue to timely resolve interdepartmental disputes so that an equitable distribution of costs among the involved parties may be achieved. The new dispute resolution process becomes effective immediately.

Questions regarding the LCAP may be addressed to Sharon Yonashiro at (213) 974-2273 or Rudy Alvarez at (213) 974-1417.

SRR:SNY

RA:DS

Attachment

c: DeWitt W. Clinton, County Counsel
Executive Officer

CLAIMS: MULTIPLE SY

**COUNTY OF LOS ANGELES:
CHIEF ADMINISTRATIVE OFFICE**

LIABILITY COST ALLOCATION POLICY

I. **POLICY OBJECTIVES:** To make departments aware and accountable for liability costs resulting from their operations through an allocation method that is consistently and timely applied and understood by departments, and to provide a performance measurement and incentive for departments to reduce liability exposures and costs.

II. **SCOPE OF ALLOCATION:** This plan allocates liability costs on an actual basis except for costs that are not identifiable to a specific department or for services that benefit the overall program.

The allocation plan will apply to auto, general (including police professional liability) and medical malpractice cases. Liability costs are financed through the General Fund, Special Districts and Trust Funds, and Hospital Enterprise Funds.

III. **POLICY ADMINISTRATOR:** This policy will be administered and monitored by the Chief Administrative Office (CAO) to determine if it is consistently and timely applied in accordance with the procedures listed below.

IV. **BACKGROUND:**

The Judgments & Damages/Insurance (unit) is a combination of two budgets: the Judgments & Damages (J&D) budget-administered by County Counsel and the Insurance budget-administered by the Chief Administrative Office - Risk Management Operations (RMO). The auto and general liability, and medical malpractice programs are administered by RMO. RMO is also responsible for administering the Contract Cities and Special Districts Trust Funds.

V. **BILLING METHODOLOGY AND PRACTICE**

In general, the County categorizes liability claims and lawsuits in the following manner:

Auto liability

Includes accidents involving a County vehicle or permittee vehicle, such as: intersection, backing or rearend collisions; emergency response and pedestrian related accidents.

General liability

Broad category which includes but is not limited to slips and falls/premises liability, employment related, civil rights or other liability associated with department operations or program administration.

Medical malpractice

Includes hospital liability.

Liability costs include expenses incurred by the County to investigate, defend and resolve claims and lawsuits associated with the above accident categories. To ensure accounting and billing consistency, liability costs are grouped in the following categories:

Indemnity

Settlements, Judgments, Structured Annuities and Interest Costs.

Legal Fees & Expenses

Legal Defense Fees, Allocated Expenses (i.e., court reporter, witness fees, examinations, copy services, etc.), Sanctions/Penalties.

Claims Administration

Third-Party Claims Administrators (TPAs), contract counsel, and claims staff.

Overhead

County Program Administrators (CAO and County Counsel). Also included will be costs for the following: Corporate Systems, Internal Services Department (ISD) - Information Technology Services, Urban Research, and those costs associated with liability cases which are not associated with a specific County department or its operations.

Special Projects

Claims and Performance Audits, Driver License Program.

Indemnity and Legal Fees & Expenses costs will be billed on an actual cost basis, while Overhead, Claims Administration and Special Projects costs related to TPAs will be distributed Countywide based on each department's case count in relation to overall County costs.

Liability costs for cases involving multiple departments will be billed to the respective department based on an assessment of each department's liability. Costs for cases associated with services provided by one department for the benefit of another department will be charged to the provider department, unless the service agreement provides that the client department will assume responsibility for liability which arises out of the scope of the agreed upon services.

V. PROCEDURES:

Below are the policy guidelines for Judgments & Damages/Insurance:

- 1) Expenditures incurred by RMO related to program administration of the Insurance budget will be billed to the Insurance budget and then expensed to departments.
- 2) Judgments/Settlements and expenditures incurred by County Counsel associated with case preparation and defense such as attorney fees, expert witnesses, and other related costs will be billed to departments/districts unless costs cannot be identified to a case associated with a department/district for billing.

Programs involving third party administrators will be self supporting in that all costs are to be billed to departments/districts. RMO will review indemnity and administration costs for appropriateness. All liability costs to be paid from the Contract Cities and Special District Trust Funds will be processed through RMO.

- 3) Department/District should be billed all judgments/settlements including associated litigation costs for which they are directly responsible. Costs on cases involving multiple departments will continue to be billed based on an assessment of each department's liability. This includes auto liability, medical malpractice, and general liability costs. Billings to general fund departments will not include Countywide overhead but will include departmental overhead costs. Departments must absorb costs above their budgeted amounts for both the J&D and Insurance budgets.

If a department indicates absorption of costs above their budgeted amounts in the J&D budget is not realistically possible, the department needs to contact its CAO budget analyst to discuss alternative solutions. Any requested use of the J&D central reserve requires the Chief Administrative Officer's or designee's approval. This provision will not apply to the Insurance budget.

RMO and County Counsel will continue to bill the Courts for auto and general liability costs for which they were given NCC in the decentralization of costs.

Exception: The majority of the Local Agency Formation Commission (LAFCO) legal costs deal with issues of County departments/districts. LAFCO therefore will not be billed for costs incurred on issues as a representative of the County on behalf of County departments/districts. The County department/district whose services are impacted will be billed.

- 4) Internal Services Department (ISD) will be billed for judgments/settlements and associated litigation costs on TPA administered cases for which they are responsible.

If a case (such as slip and falls) involves maintenance services provided by ISD, the client department will be billed unless ISD is determined to be the responsible department.

- 5) Judgments/settlements and associated litigation costs relating to Capital Projects will be evaluated on a case by case basis by the Chief Administrative Office to determine how these costs will be billed.
- 6) Expenditures from the J&D central reserve require the Chief Administrative Officer's or the Assistant Chief Administrative Officer's (or designee) approval.

The J&D central reserve has been established to pay for the following:

- All judgments/settlements for cases of a countywide nature. This includes all costs associated with defense of the case.

Examples: Redistricting or Search and Rescue Operations.

- Costs for special circumstance issues where the Board orders payment from the J&D budget.

Examples: Judge Kolts & Merrick Bobb follow-up of Sheriff Operations.

- Superior and Municipal courts judgments/settlements and associated litigation costs for lawsuits not administered by TPAs. No NCC was distributed to these departments in the J&D decentralization.

If the Court specifically requests information/counsel from other attorneys outside the County, the Courts must pay for this expense.

- The J&D central reserve may be used to cover one-time costs and/or departmental expenditures above the budgeted amounts for judgments/settlements and associated litigation costs at the Chief Administrative Officer's discretion.

The review process established to evaluate claims and lawsuits involving multiple departments is as follows:

- 1) County departments will receive notice of multiple department cases from County Counsel or TPAs (Carl Warren or Professional Risk Management). Departments will be notified as soon as their potential involvement is known (in some cases, department involvement may not initially be apparent but is later revealed by County Counsel or TPA investigation). Information concerning these cases will also appear in department Liability Claims Information reports provided by the CAO.
- 2) Upon notification of their involvement, departments should initiate their own review and provide relevant information and justification supporting their position regarding their share of responsibility.
- 3) In the initial stages of the claims handling and/or legal defense process, County Counsel, defense counsel and the TPA will also evaluate the case and provide their opinions and recommendations of each department's liability.
- 4) If necessary, the Chief Administrative Office will convene a joint meeting with the involved departments, County Counsel, defense counsel and TPA to review the facts and circumstances of the incident, and to evaluate if apportionment of responsibility should be revised based on department input.

- 5) In the event departments continue to disagree, the Chief Administrative Officer or designee will make a final determination as to the settlement and cost apportionment so that funding responsibility will not delay submission of an otherwise appropriate settlement to the Claims Board and, as appropriate, to the Board of Supervisors for approval.
- 6) The Chief Administrative Officer will meet, if requested, with the respective Department Head to discuss the matter.

VI. **IMPLEMENTATION:** This revised policy is effective April 11, 1996.

Prepared by:

Chief Administrative Office
Risk Management Operations
April 11, 1996

CLAIMSVALLOCATE.GD2



SALLY R. REED
CHIEF ADMINISTRATIVE OFFICER

March 7, 1996

Executive Summary

DEPARTMENTAL LIABILITY COST APPORTIONMENT (3-VOTES)

Request

- Approve the establishment of a dispute resolution process for resolution of issues concerning apportionment of liability costs, especially in situations involving two or more departments in the same claim or lawsuit;
- Authorize the Chief Administrative Office, with the assistance of County Counsel, to implement and administer the dispute resolution process; and
- Direct the Auditor-Controller to make payment for settlements and judgments determined by the proposed dispute resolution process.

Fiscal Impact

- None to the Judgments and Damages/Insurance Budget.
- Department budgets could be impacted if they did not include adequate funding in their allocations for this purpose.

Issues

- Board concern with County liability costs and need to timely resolve claims and lawsuits.
- Need for process to apportion liability costs and determine internal funding responsibility.



BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

181 KENNETH HAHN HALL OF ADMINISTRATION / LOS ANGELES, CALIFORNIA 90012

JOANNE STURGES, EXECUTIVE OFFICER
(213) 974-1411

March 30, 1995

MEMBERS OF THE BOARD
GLORIA MOLINA
YVONNE BRATHWAITE BURKE
ZEV YAROSLAVSKY
DEANE DANA
MICHAEL D. ANTONOVICH

To Department Heads:

At a recent Board meeting, we discussed the importance of presenting a coordinated strategy when representing County policies and positions in Sacramento and Washington, D.C. In the past, we have had some overlapping advocacy efforts on the part of departments which resulted in diluting our credibility and the effectiveness of our overall strategy. With the significant changes that are being proposed, we need to present a harmonious response in the various forums in Sacramento and Washington, D.C.

While we do not want to stifle your activities in promoting the County's interests particular to your departments, we are asking that you advise the Chief Administrative Office (CAO) when you plan to represent the County prior to the event, and also provide a copy of any testimony. This will enable the CAO to contact the County's Sacramento or Washington, D.C., representatives to ensure that the County's representation efforts are coordinated within the overall strategy. Needless to say, all representation must be consistent with County policies and/or approved positions.

Thank you very much for your cooperation in this matter.

Sincerely,

GLORIA MOLINA
Chair of the Board
Supervisor, First District

YVONNE BRATHWAITE BURKE
Supervisor, Second District
DEANE DANA
Supervisor, Fourth District
ZEV YAROSLAVSKY
Supervisor, Third District
MICHAEL D. ANTONOVICH
Supervisor, Fifth District

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